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United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	WILLIAM J. HIBBLER	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	11 C 1870	DATE	March 21, 2011
CASE TITLE	U.S. ex rel. Patrice Daniels (#B-70662) vs. Guy Pierce		

DOCKET ENTRY TEXT:

The petitioner's motion for leave to proceed *in forma pauperis* [#2] is denied. The petitioner is directed to: (1) pay the \$5.00 statutory filing fee; and (2) submit an amended petition plus a judge's copy (including a complete copy of any attached exhibits) within thirty days of the date of this order. The amended petition must be on the court's required form. The Clerk is directed to send the petitioner an amended habeas form and instructions along with a copy of this order. Failure of the petitioner to comply with these directives within thirty days will result in summary dismissal of this case pursuant to Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

Patrice Daniels, a state prisoner, has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petitioner challenges his convictions on multiple counts of first degree murder, aggravated criminal sexual assault, and concealing a homicidal death. Petitioner contends that he was mentally unfit to enter the plea agreement upon which his convictions are based.

The petitioner's motion for leave to proceed *in forma pauperis* is denied for lack of a sufficient showing of indigence. The petitioner's financial affidavit reveals that he has a current balance of \$278.91 in his prison trust account. Because the petitioner is a prisoner for whom the State provides the necessities of life, such assets do not qualify him for pauper status. *See, e.g., Longbehn v. United States*, 169 F.3d 1082, 1083-84 (7th Cir. 1999), *citing Lambert v. Illinois Department of Corrections*, 827 F.2d 257, 260 (7th Cir. 1987). The petitioner is financially able to pay the \$5.00 statutory filing fee for habeas corpus petitions and must do so if he wishes to proceed with this action. He may pay by check or money order made payable to Clerk, United States District Court.

In addition, the petitioner must submit an amended habeas petition. Because the petitioner has not used the court's required form, *see Local Rule 81.3(a) (N.D. Ill.)*, the court cannot make a threshold determination as to whether the petitioner's claims have been properly exhausted and are timely.

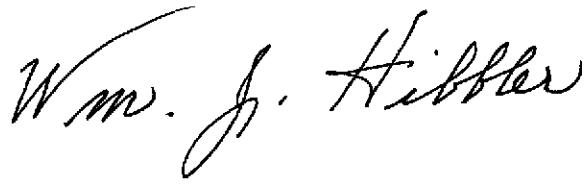
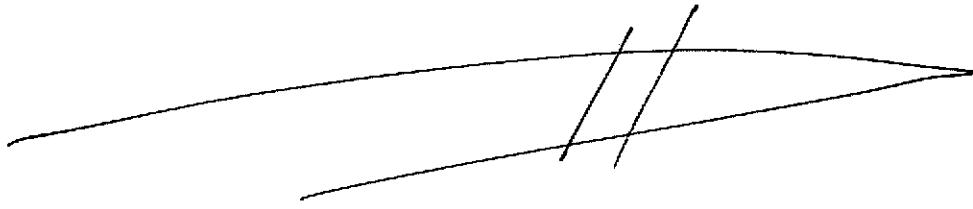
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STATEMENT (continued)

The petitioner is granted thirty days to submit an amended petition. The amended petition must be on the court's required form. The petitioner must write both the case number and the judge's name on the amended petition and return it to the Prisoner Correspondent. As with every document filed with the court, the petitioner must include the original plus a judge's copy of the amended petition. The judge's copy must include a complete set of any exhibits attached to the original amended petition.

The amended petition replaces or supersedes the original petition. In other words, after the petitioner submits an amended petition, the court will no longer consider the original petition. Thus, grounds contained in the original petition will not be considered if they are not included in the amended petition. Furthermore, inmates generally have only one opportunity to seek federal habeas review. Therefore, the petitioner should fill out his amended petition carefully and completely, including any and all grounds he wants the court to consider in determining the validity of his conviction.

The Clerk is directed to send the petitioner an amended habeas form and instructions for filing along with a copy of this order. Failure to comply with these directives within thirty days will result in summary dismissal of this case pursuant to Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254.



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U.S. DISTRICT COURT